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EXAMINER

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ART UNIT

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

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Application Number: 10/666,287
Filing Date: September 19, 2003
Appellant(s): MATHEWSON ET AL.

MAILED

MAR 13 2006

GROUP 2800

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Marcia Doubet
For Appellant

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EXAMINER'S ANSWER

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This is in response to the appeal brief filed November 04, 2005 appealing from the Office action mailed June 23, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

5 The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

10 The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

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(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

20 The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

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The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,554,187	Otto	4-2003
6,507,279	Loof	1-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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3. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otto (US 6,554,187 B2, hereinafter “Otto”) in view of Loof (US 6,507,279 B2, hereinafter “Loof”).

Re claims 1-5, 8, 9, 11, 12, and 15-19, Otto discloses a system and the method for detecting whether an item brought into a store is purchased or stolen item utilizing RFID label information (see abstract; col. 1, lines 31+). When an item is purchased, transaction information such as time and location of the purchase including store identifier is recorded into the RFID tag (col. 1, lines 11-15; col. 2, lines 32-34). When the transactional information such as date and time of purchase, location of purchase, and seller is not verified, the item may be considered to be stolen (col. 2, lines 16+).

10 Otto discloses that RFID tags contain a correlator – albeit purchase information. Otto fails to specifically teach or fairly suggest that the correlator value indicate whether a group of items are purchased together.

Loof teaches an integrated self-checkout system incorporating access control, electronic article surveillance (EAS) and radio frequency identification (RFID) subsystems (see abstract).

15 When a customer comes into a store, the customer is either granted with access or denied access (see step 48 in figure 3). The customer’s visits – entry into and exit out of the store are recorded (col. 5, lines 16+). During the visit, the customer selects a plurality of items, and the items’ RFIID tag is written to or deactivated (col. 4, lines 10+; col. 4, lines 31-46; col. 5, line 49 – col. 6, lines 3). The items can be written to individually or in groups (col. 6, line 1). Since the customer’s visit (including up-to-the-minute location) is also tracked, the plurality of items purchased during a particular visit can be grouped together at least by purchase date and time.

20 Loof also discloses storing transactional information into the database as recited in claims 2, 4, 9,

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11, 16, and 18. The use of database is quite extensive in that they track of customer profile, purchase habit, visit tracking and purchase tracking. The purchase information stored in the database is used in generating promotions, or other forecasting activities.

In view of Loof's teaching, it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate recording detailed purchase information into RFID tag of a group of items in order to provide retailers with accurate record regarding a group of items. Some purchases involve more than one item. For example, a computer system may be purchased at a discount price, which includes a computer, a monitor and a printer and other peripheral devices. Purchased separately, each item is generally more expensive than purchased as a whole system. An unscrupulous customer may purchase the system at a discount price, and may want to refund the items individually later for fraudulent gain. By grouping the items together, and ensuring that the items should be treated as a whole would be an obvious improvement one ordinary skill in the art would make to thwart off such loss. Any other embodiments involving more than one item such as "buy one, get one at 50% discount" or "buy one, get one free", at least from merchant's point of view, need to be grouped together to avoid loss resulting from refund of a part of the purchase.

Re claims 6, 7, 13, 14, 20, and 21, when the items are taken into a store by the customer, the RFID interrogator interrogates the item by store ID or at the transaction level (col. 2, lines 37-63+).

Re claim 10, when a plurality of items are purchased at one time (or at the same time), the transaction detail information such as purchase time, place, and sales clerk would be identical (col. 2, lines 32+).

(10) Response to Argument

Under Rejection of Independent claims 1, 8, and 16 (See Appeal Brief 7.1 or Paragraph 9), Appellant argues that the Action is not provided with a proper motivation for combining the references. Appellant further argues that “transactional information” is not a correlator value of the instant application.

Examiner respectfully disagrees. It is the Examiner’s position that Appellant’s claim language “correlator value” is broadly recited such that purchase information disclosed in Otto can be considered an embodiment of Appellant’s correlator value. In paragraph 3 under (9) Grounds of Rejection, a motivation conceivable by one ordinary skill in the art have been provided.

In Paragraph 10, Appellant argues, “Otto fails to specifically teach or fairly suggest that the RFID tags contain a correlator value which indicates that the group of items are purchased together.” It is the Examiner’s position that RFID tag disclosed in Otto contains a correlator value – transaction information. The correlator value does not show that the group of items are purchased together. The feature of grouping them together in one transaction is shown in Loof.

Examiner carefully reviewed the term “correlator” used in the specification whether the term warrants a particular meaning. In paragraphs 0003 and 0015, it is disclosed that correlator value is transaction specific. In actual embodiment, the correlator value is created for each sales transaction, and may include current date and time, the register number of a cash register or other point-of-sales device(see paragraph 0041). It is in effect the purchase information disclosed in Otto (See Otto, col. 2, lines 33+). In view of the above, Appellant’s argument

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presented in Paragraph 16 in trying to find the actual term “correlator” or “correlate” in the cited references and argument thereof (paragraph 16 in the appeal brief) is moot.

Responding to Appellant’s arguments in Paragraphs 11 and 29, in combining of Otto and Loot, storing the correlator value into the database is also disclosed by the combined reference.

5 Otto shows an inventory data file 22 and promotion data file 24 within the transaction server 18 (see figure 1). Inventory file is updated as items are sold or returned triggering action on the inventory file. Promotion file is used in retrieving a likely promotional item based on the item identified by previous purchase (col. 2, lines 50-55), suggesting a link between item in the inventory file and associated promotion for the item. Examiner acknowledges that Otto does not
10 disclose “database” although it is probable that these files are a component of relational database. The files in Otto do have functionality of the database – read, write, inquiry based on relationship of components. Database, unlike correlator, is a well-known term understood by one ordinary skill in the art. Although Otto’s data files virtually serve all the functions of database, it should be noted that the previous Office Actions did not rely on inherency or obviousness of the
15 database or equivalent thereof in Otto. Otto’s lack of database is cured by the Loof patent. Loof discloses a database comprising customer information, purchasing habits (col. 2, lines 13-29; col.2, lines 59+). Customer’s entry and exit are recorded in the database, and customer being is tracked while in the store, and the items selected by the customer are also recorded (col. 5, lines 16-47). Considering a customer’s visit as one event, every recordable details of the event
20 including the purchase of a plurality of items is recorded in the database.


In Paragraph 25, Appellant concedes, “Otto provide, although not in a greatly detailed manner, Transaction information such as purchase time and date, which could be interpreted

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as part of transaction ID.” However, Appellant further argues that time and date is insufficient for generating a unique correlator value. Examiner respectfully disagrees on at least following grounds. Otto discloses that RFID labels store production identification information and various amounts of additional information, such as date and time of purchase, location of purchase, and seller. The additional information is stored at checkout. The location can be a store ID, and more likely includes a register number and a sales clerk identification. In order to process a return (col. 2, lines 39-40), an item must have information amounting to paper/electronic receipt. Product or transaction related information stored in the RFID label is clearly disclosed in US 6,099,394 to Chenoweth et al. which is incorporated by reference (See Otto, col. 1, lines 16-20). Chenoweth discloses storing purchase information, exchange information (see abstract) and purchaser, store location and other information (col. 1, lines 8+), which is sufficient to be unique.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Ahshik Kim
Primary Examiner, AU 2876
March 2, 2006

Conferees: 
David Porta – SPE, AU 2884


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